



County of Los Angeles CHIEF EXECUTIVE OFFICE

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Chief Executive Officer

July 22, 2011

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From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name and title.

WASHINGTON, D.C. UPDATE - S. 911, PUBLIC SAFETY SPECTRUM AND WIRELESS INNOVATION ACT, AND RELATED NEW HOUSE PROPOSALS AND BILLS

The memorandum provides an update on S. 911 (Rockefeller, D-W.VA), Public Safety Spectrum and Wireless Innovation Act, and an overview of recent House proposals and bills regarding the spectrum and public safety broadband network, including two competing House Democratic and Republican proposals.

S. 911 (Rockefeller)

As reported in the June 21, 2011 Washington, D.C. Update, the Senate Committee on Commerce, Science and Transportation passed S. 911 on June 8, 2011 by a 21 to 4 vote, after approving 20 amendments, including a major substitute amendment to this measure. The Committee has not yet reported the bill. As amended, S. 911 would reallocate 10 megahertz (MHz) of radio spectrum, known as the "D Block", to facilitate creation of a nationwide public safety broadband network to support interoperable communications for first responders. The legislation would also provide the Federal Communications Commission (FCC) the authority to conduct incentive auctions of commercial spectrum, and the funds from these incentive auctions would be used to pay for the deployment of the public safety network.

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Based on the unofficial bill language, major provisions of County interest include:

- Creates a Public Safety Trust Fund within the U.S. Treasury Department, which would be funded by revenues from the National Telecommunications and Information Administration spectrum auction, as well as FCC commercial spectrum auctions.
- Establishes a new Public Safety Broadband Corporation ("Corporation"), which would be granted a license for managing the "D Block" and existing public safety broadband spectrum, and would also be responsible for building, deploying, and operating a nationwide public safety interoperable broadband network. The Corporation would be required to enter into agreements to utilize, to the maximum extent economically desirable, existing commercial or other communications infrastructure and Federal, State, and local government infrastructure.
- The distribution of the funding from the Public Safety Trust Fund would include \$250.0 million in nationwide funding to be deposited into a new State and Local Implementation Fund, and \$11.75 billion to be deposited for use by the Corporation.

House Spectrum and Public Safety Network Proposals and Bills

The House of Representatives also has been active recently on the spectrum and public safety network issue. The following are key proposals and bills introduced:

- **Spectrum Innovation Act of 2011 (House Republican Proposal).** The proposal, which was released on July 13, 2011, is vastly different from S. 911 in the following ways: 1) it does not allocate the "D Block" spectrum to public safety; 2) would assign each State a license rather than a non-profit corporation that would oversee the funding and construction of the public safety network; 3) does not provide a governance structure and instead would authorize the FCC to appoint a Public Safety Communications Planning Board that would submit a detailed proposal for governing the use of public safety spectrum by States; and 4) does not provide specified funding source and options.
- **Public Safety Broadband and Wireless Innovation Act of 2011 (House Democratic Proposal).** The draft proposal, which California Representatives Waxman and Eshoo released on July 14, 2011, would create a nationwide, interoperable public safety broadband network, provide the FCC with incentive auction authority to efficiently and responsibly re-purpose broadcast spectrum, and would allocate the "D Block" to public safety.

- **H.R. 2482, Public Safety Spectrum and Wireless Innovation Act (Dingell)**, which as introduced on July 11, 2011, would establish the framework for the deployment of a nationwide, interoperable, and wireless broadband network for public safety. H.R. 2482, which is the House companion bill to S. 911, has been referred to the House Committee on Energy and Commerce, among other committees. The bill has not been scheduled for a hearing, and at this point, the above mentioned House Republican and Democratic proposals are the focus of discussions on Washington, D.C.

Overall, the significant difference between the House Republican Proposal and S. 911, and the House Democratic Proposals, is that the House Republican Proposal does not allocate the "D Block" spectrum to public safety which is very important to the public safety community. Instead, the House Republican Proposal would auction the "D Block" for private use.

On July 15, 2011, the House Communications and Technology Subcommittee of the Committee on Energy and Commerce held a hearing to address spectrum and public safety issues. Specifically, the hearing addressed two bills, the House Republican Proposal (Spectrum Innovation Act of 2011), which has not been introduced yet, and H.R. 3019, Spectrum Relocation Improvement Act, the government relocation bill from the 111th Congress. H.R. 3019 has not been re-introduced in the 112th Congress, but the bill was referenced at the hearing in the context of major bi-partisan provisions that could be included in the legislation, such as the more efficient use of government spectrum and establishment of a process to reallocate freed up government spectrum for commercial purposes. Both measures were discussed at the hearing and action was not taken. The hearing had various witnesses, including San Jose Police Department Chief Christopher Moore who indicated that public safety officials would oppose any legislation that does not allocate the "D Block" spectrum to public safety. The House Energy and Commerce Committee is not expected to mark up its version of the legislation before the August recess.

LA-RICS Advocacy Position

On July 7, 2011, the Los Angeles Regional Interoperable Communications System (LA-RICS) Authority Board of Directors voted to support provisions of S. 911. In particular, the LA-RICS Authority supports the proposed governance structure for the public safety broadband network and the allocation of the "D Block" to public safety. According to the LA-RICS Authority, the "D Block" is the only unencumbered portion of spectrum remaining in the 700 MHz band and allocating the "D Block" to public safety will allow for a nationwide interoperable broadband network on a contiguous 20 MHz spectrum swath. Once the technology becomes available, the 20 MHz network will have

the capacity necessary to transmit mission-critical, real-time high resolution video, voice and data during an emergency where the capacity demand is expected to be at its highest. The LA-RICS Authority is a collaborative effort which includes law enforcement, fire service, and health service professionals, and will serve over 34,000 first responders in the Los Angeles region through a single voice and data communication platform.

The LA-RICS Authority's staff is currently analyzing the recently introduced House proposals and bills to determine the potential impact on the development of the LA-RICS system. Based on a preliminary review, LA-RICS staff indicates that the House Republican Proposal, the Spectrum Innovation Act of 2011, is the most concerning proposal so far, especially because it does not provide for the allocation of the "D Block" to public safety.

Legislative Outlook

The legislative outlook for the enactment of both S. 911 and the House proposals remains uncertain at this time. As indicated earlier in this update, the House Energy and Commerce Committee is not expected to mark up its version of the legislation before the August recess. However, according to recent news reports, Senator John D. Rockefeller is pushing for Senate action this month on S. 911, as part of the current negotiations on the deficit reduction package that would accompany an increase in the Federal debt ceiling. Furthermore, some news reports indicate that the House Energy and Commerce Subcommittee Chairman has suggested that radio spectrum auction provisions may be part of a deficit reduction package, but without language that would turn over a portion of the spectrum to public safety agencies. Negotiations on the deficit reduction agreement that would accompany an increase in the Federal debt ceiling are currently underway and this has not been confirmed.

Overall, the most contentious issue currently being considered is whether the "D Block" and spectrum auction revenue should be used more to reduce the Federal budget deficit rather than improving public safety interoperable communications. Even if the "D Block" is allocated for public safety use, as proposed under S. 911, Congress could opt to provide relatively little spectrum auction revenue to finance public safety interoperability.

On July 20, 2011, the Congressional Budget Office (CBO) released its cost estimates of S.911, which are likely to influence current negotiations. CBO estimates that the bill's provisions to authorize the FCC to auction spectrum would raise \$24.465 billion over 10 years and that it could raise an additional \$2.750 billion if the "D Block" were auctioned rather than assigned to public safety. However, CBO estimates the S.911 would decrease the Federal deficit by only \$6.465 billion over 10 years because the bill's \$24.456 billion in increased Federal revenue from the spectrum auctions would be offset

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by \$18 billion in increased costs, including \$15.525 billion in costs associated with improving public safety interoperability communications.

It is important to note that even if S. 911 was enacted this year, it will take time to implement especially because it requires the establishment of a new Corporation to be responsible for building, deploying and operating a nationwide public safety interoperable broadband network.

We will continue to keep you closely advised.

WTF:RA
MR:OR:MT:lm

c: All Department Heads
Legislative Strategist